

LEGISLATURE OF NEBRASKA  
NINETY-NINTH LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 88**  
FINAL READING

Introduced by Byars, 30

Read first time January 6, 2005

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to real estate; to amend section 76-2422,  
2 Reissue Revised Statutes of Nebraska; to change  
3 provisions relating to brokerage agreements; and to  
4 repeal the original section.  
5 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 76-2422, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           76-2422. (1) All written agreements for brokerage  
4 services on behalf of a seller, landlord, buyer, or tenant shall be  
5 entered into by the designated broker on behalf of that broker and  
6 affiliated licensees, except that the designated broker may  
7 authorize affiliated licensees in writing to enter into the written  
8 agreements on behalf of the designated broker. A copy of a written  
9 agreement for brokerage services shall be left with the client or  
10 clients.

11           (2) Before engaging in any of the activities enumerated  
12 in subdivision (2) of section 81-885.01, a designated broker  
13 intending to establish a single agency relationship with a seller  
14 or landlord shall enter into a written agency agreement with the  
15 party to be represented. The agreement shall include a licensee's  
16 duties and responsibilities specified in section 76-2417, the terms  
17 of compensation, a fixed date of expiration of the agreement, and  
18 whether an offer of subagency may be made to any other designated  
19 broker, except that if a licensee is a limited seller's agent for a  
20 builder, the terms of compensation may be established for a  
21 specific new construction property on or before the builder's  
22 acceptance of a contract to sell.

23           (3) Before or while engaging in any of the acts  
24 enumerated in subdivision (2) of section 81-885.01, a designated  
25 broker acting as a single agent for a buyer or tenant may enter  
26 into a written agency agreement with the party to be represented.  
27 The agreement shall include a licensee's duties and  
28 responsibilities specified in section 76-2418, the terms of

1 compensation, a fixed date of expiration of the agreement, and  
2 whether an offer of subagency may be made to any other designated  
3 broker.

4 (4) Before engaging in any of the activities enumerated  
5 in subdivision (2) of section 81-885.01, a designated broker  
6 intending to act as a dual agent shall obtain the written consent  
7 of the seller and buyer or landlord and tenant permitting the  
8 designated broker to serve as a dual agent. The consent shall  
9 include a licensee's duties and responsibilities specified in  
10 section 76-2419. The requirements of this subsection are met as to  
11 a seller or landlord if the written agreement entered into with the  
12 seller or landlord complies with this subsection. The requirements  
13 of this subsection are met as to a buyer or tenant if a consent or  
14 buyer's or tenant's agency agreement is signed by a potential buyer  
15 or tenant which complies with this subsection. The consent of the  
16 buyer or tenant does not need to refer to a specific property and  
17 may refer generally to all properties for which the buyer's or  
18 tenant's agent may also be acting as a seller's or landlord's agent  
19 and would be a dual agent. If a licensee is acting as a dual agent  
20 with regard to a specific property, the seller and buyer or  
21 landlord and tenant shall confirm in writing the dual-agency status  
22 and the party or parties responsible for paying any compensation  
23 prior to or at the time a contract to purchase property or a lease  
24 or letter of intent to lease is entered into for the specific  
25 property.

26 (5) Before engaging in any of the activities enumerated  
27 in subdivision (2) of section 81-885.01, a designated broker  
28 intending to act as a subagent shall enter into a written contract

1 with the primary designated broker for the client. If a designated  
2 broker has made a unilateral offer of subagency, another designated  
3 broker can enter into the subagency relationship by the act of  
4 disclosing to the customer that he or she is a subagent of the  
5 client.

6 (6) Before engaging in any of the activities enumerated  
7 in subdivision (2) of section 81-885.01, a designated broker who  
8 intends to establish an agency relationship with any party or  
9 parties to a transaction in which the designated broker's duties  
10 and responsibilities exceed those contained in sections 76-2417 and  
11 76-2418 shall enter into a written agency agreement with a party or  
12 parties to the transaction to perform services on their behalf.  
13 The agreement shall specify the agent's duties and  
14 responsibilities, including any duty of confidentiality, and the  
15 terms of compensation. Any agreement under this subsection shall  
16 be subject to the common-law requirements of agency applicable to  
17 real estate licensees.

18 Sec. 2. Original section 76-2422, Reissue Revised  
19 Statutes of Nebraska, is repealed.